

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN SENATE APRIL 23, 2007

SENATE BILL

No. 133

Introduced by Senator Aanestad
(Coauthors: Senators Cogdill, Cox, and Wiggins)
(Coauthor: Assembly Member Berg)

January 24, 2007

~~An act to add and repeal Section 29485 of the Government Code, relating to federal forest reserve funds, and declaring the urgency thereof, to take effect immediately. An act to add Article 8 (commencing with Section 12418) to Chapter 1 of Part 6 of Division 2 of the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 133, as amended, Aanestad. ~~Federal forest reserve funds; short-term loans. Title insurance: title solicitors.~~

The Insurance Commissioner generally regulates insurance, including title insurance.

This bill would prohibit a person from marketing title insurance unless he or she holds a valid certificate of registration as a title marketing representative issued by the commissioner for a 5-year period.

This bill would define "title marketing representative" and provide that this does not include a person whose primary duties directly involve the creation, production, or issuance of the title policy or the performance of escrow services.

This bill would provide that if a person markets title insurance without a valid certificate, as defined, the commissioner may issue a cease and desist order prohibiting that person from further marketing.

This bill would specify the information that the applicant for a certificate must supply in writing under penalty of perjury to the commissioner, thereby creating a state-mandated local program.

This bill would provide a process and set a fee for certificate renewal.

This bill would provide that the department may revoke, suspend, restrict, or decline to issue a certificate of registration if it determines, after a hearing, that the title marketing representative has committed specified acts. The bill specifies other remedies available to the commissioner for misconduct.

The bill would require the commissioner to issue and adopt rules and regulations, as necessary, to administer the title marketing representative program and would provide that bill would not become effective until any regulations adopted are approved by the Office of Administrative Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing federal law requires 25% of all moneys received during any fiscal year from each national forest to be paid, at the end of the year, by the Secretary of the Treasury to the state or territory in which that national forest is situated, to be expended as prescribed by the legislature of a state or territory for the benefit of the public schools and public roads of the county or counties in which that national forest is situated. Under existing state law, the Controller is required to keep a record of the money received from the United States on account of each forest reserve in California. The Controller also is required, on or before June 30 of each year, to draw a warrant in favor of the treasurer of each county entitled to payment of the forest reserve funds, and the Treasurer is required to pay the warrants.~~

~~Existing law requires the auditor of any county receiving a payment of money from the forest reserve funds to immediately apportion the money by placing 50% to the credit of the forest reserve account in the county school service fund of the county, and 50% to the credit of the road fund. The county superintendent of schools, with the approval of the county board of education, then is permitted to allocate 15% of the forest reserve funds for use for the improvement of educational programs for students in the county. The county superintendent of schools is~~

~~required to apportion the balance of the money credited to the forest reserve account in the county school service fund to school districts and community college districts of the county lying within or adjacent to the United States forest reserve with approval of the county board of education in a manner that is required to be prescribed prior to the 30th day of June of the fiscal year next following the year in which the funds were received.~~

~~This bill would authorize the Controller during the 2006-07 fiscal year to issue loans from the General Fund to a school district, a county superintendent of schools on behalf of a school district, or a community college district that has requested that loan from the Superintendent of Public Instruction in order to provide short-term relief to the school district or community college district based on a delay in the receipt of federal forest reserve funding. However, a school district would be prohibited from requesting a loan unless its county superintendent of schools has reviewed the request and has certified that the district is capable of repaying the loan that is sought by that district. The Superintendent of Public Instruction would be prohibited from approving a loan unless the amount of federal forest reserve funding the school district or community college district that is requesting the loan received during the 2005-06 fiscal year represents more than 5% of the budget of that district for the 2005-06 fiscal year. The school district or community college district receiving a loan would be required to repay the loan in full, plus interest, on or before June 30, 2008.~~

~~The bill would make its provisions inoperative on, and repeal its provisions as of, January 1, 2009.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 8 (commencing with Section 12418) is
- 2 added to Chapter 1 of Part 6 of Division 2 of the Insurance Code,
- 3 to read:

Article 8. Title Insurance Representatives

12418. (a) No person shall market title insurance in this state unless the person holds a valid “certificate of registration” as a title marketing representative issued by the commissioner pursuant to Section 12418.1.

(b) For purposes of this article, “title marketing representative” means a natural person employed by a title insurer, underwritten title company, or controlled escrow company whose primary duty is to market title insurance as defined in Section 12340.1 and receives compensation through bonuses or commission based on the percentage of title insurance policies or escrow services sold through his or her marketing efforts. A title marketing representative does not include a person whose primary duties directly involve the creation, production, or issuance of the title policy or the performance of escrow services.

(c) If any person knowingly markets title insurance without having applied for or obtained a certificate of registration pursuant to Section 12418.1, the commissioner may issue a cease and desist order pursuant to Section 12921.8.

12418.1. (a) A certificate of registration as a title marketing representative shall be applied for and renewed by filing with the commissioner a written application. The application shall be on a form prescribed by the commissioner, and shall prescribe the disclosure of information that will aid the commissioner in determining whether the prerequisites for the certificate have been met. The applicant shall certify that the contents of the application are true and correct under penalty of perjury.

(b) Each application for a certificate of registration shall contain the following information:

(1) The residence address, the principal business address, and the mailing address of the applicant.

(2) A statement, signed by an officer of the business by whom the applicant is or will be employed, certifying that the applicant will be provided training regarding Article 6 (commencing with Section 12404) within six months of the hiring date or date of application.

(c) Each application to obtain or renew a certificate of registration shall be accompanied by a filing fee in an amount determined by the department to be sufficient to defray the

1 department's actual cost of processing the application or renewal.
2 An application shall not be deemed filed unless it has been
3 delivered to the department accompanied by the proper filing fee.

4 (d) The commissioner may decline to act on an incomplete or
5 defective application until an amended application that completes
6 the prescribed form has been filed with the department. In the
7 event that the application is found to be defective or incomplete,
8 the department shall notify the applicant and his or her employer
9 in writing that the application needs to be modified and resubmitted
10 within 15 days of receipt of this written notification.

11 (e) An applicant submitting an application filed with the
12 department for a certificate of registration as a title marketing
13 representative may solicit, sell, or market title insurance, as defined
14 in Section 12340.1, in the interim time period preceding the formal
15 approval or rejection of the application.

16 12418.2. (a) An applicant or holder of a certificate of
17 registration as a title marketing representative is not required to
18 pass a qualifying examination, and is exempt from prelicensing
19 and continuing education requirements, except as specified in
20 paragraph (2) of subdivision (b) of Section 12418.1.

21 (b) Upon the filing of an application for the issuance or renewal
22 of a certificate of registration, the commissioner may conduct an
23 investigation to determine if the applicant shall be granted the
24 certificate of registration by virtue of prior conduct in the
25 marketing of policies of title insurance and to verify the accuracy
26 of the information submitted by the applicant to the Department
27 of Insurance and may require the filing of any supplementary
28 documents, affidavits, and statements that may be necessary to
29 determine whether training specified in paragraph (2) of
30 subdivision (b) of Section 12418.1 has been, or will be, provided
31 to the applicant within the time period set forth in Section 12418.1.
32 Should the commissioner decline to approve the granting of a
33 certificate of registration, the procedure set forth in subdivision
34 (c) of Section 12418.4 shall apply.

35 12418.3. (a) Each certificate of registration issued under this
36 chapter shall be for a five-year period beginning on the date the
37 certificate is issued.

38 (b) Not less than 60 days before a certificate of registration will
39 expire, the commissioner shall mail an application to renew the
40 certificate to the last known address appearing on the registrant's

1 records. It shall be the responsibility of the registrant to renew his
2 or her certificate, whether or not a renewal notice is received.

3 (c) The application for renewal of an expired certificate of
4 registration may be filed after the expiration date and until the
5 same month and day of the next succeeding year. In addition to
6 the fee for a renewal application, a delinquent application fee in
7 the amount of fifty dollars (\$50) shall be assessed for each
8 application for renewal filed after the expiration date. Each
9 registrant shall be subject to payment of delinquent application
10 fees under this subdivision. The commissioner may waive the
11 delinquent application fee, or accept a renewal filed after the date
12 specified in this subdivision, if the registrant's failure to comply
13 is due to clerical or other inadvertent error on the part of the
14 department.

15 12418.4. (a) The provisions set forth in Sections 1668, 1669,
16 1670, 1738, 1738.5, 1743, and in Article 6 (commencing with
17 Section 12404), shall apply to all applicants or holders of a
18 certificate of registration issued pursuant to this article.

19 (b) The department may revoke, suspend, restrict, or decline to
20 issue a certificate of registration if it determines that the title
21 marketing representative has violated provisions of Article 6
22 (commencing with Section 12404) pursuant to the due process and
23 hearing requirements set forth in subdivision (c).

24 (c) Except as provided in Section 1669, a certificate of
25 registration shall not fail to be issued, denied, restricted,
26 suspended, or revoked without a hearing conducted in accordance
27 with Chapter 5 (commencing with Section 11500) of Part 1 of
28 Division 3 of Title 2 of the Government Code.

29 (d) Any costs associated with an enforcement action or
30 investigation that results in a certificate of registration being
31 restricted, suspended, or revoked shall be paid for by the holder
32 of a certificate of registration issued pursuant to this article.

33 (e) In addition to, or in lieu of, any other penalty that may be
34 imposed under this article against a title marketing representative,
35 the commissioner may bring an action against a title marketing
36 representative for any violation of the provisions of Article 6
37 (commencing with Section 12404). If a title marketing
38 representative charged with a violation of Article 6 (commencing
39 with Section 12404) is determined by the commissioner to have
40 committed the violation, the commissioner may request the

1 *surrender of, temporarily suspend or revoke either permanently*
2 *or temporarily the title marketing representative's certificate of*
3 *registration, and, in addition, may impose a monetary penalty.*
4 *Any payment of a monetary penalty pursuant to a settlement or*
5 *final adjudication shall be made from the title marketing*
6 *representative's personal funds and not by his or her employer*
7 *either directly or through the title marketing representative. This*
8 *article shall not preclude an action against a company that had*
9 *actual knowledge of the violation by the title marketing*
10 *representative.*

11 *12418.5. (a) The commissioner shall issue rules and*
12 *regulations, as necessary, to administer the program established*
13 *by this article.*

14 *(b) The commissioner shall adopt regulations to define*
15 *reasonable expenditures for title marketing representatives*
16 *pursuant to subdivision (d) of Section 12404.*

17 *12418.6. This article shall not take effect until the regulations*
18 *adopted pursuant to subdivision (b) of Section 12418.5 have been*
19 *approved by the Office of Administrative Law.*

20 *SEC. 2. No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *the only costs that may be incurred by a local agency or school*
23 *district will be incurred because this act creates a new crime or*
24 *infraction, eliminates a crime or infraction, or changes the penalty*
25 *for a crime or infraction, within the meaning of Section 17556 of*
26 *the Government Code, or changes the definition of a crime within*
27 *the meaning of Section 6 of Article XIII B of the California*
28 *Constitution.*

29 **SECTION 1.** *Section 29485 is added to the Government Code,*
30 *to read:*

31 ~~29485. (a) During the 2006–07 fiscal year, the Controller may~~
32 ~~issue loans from the General Fund to a school district, a county~~
33 ~~superintendent of schools on behalf of a school district, or a~~
34 ~~community college district that has requested that loan from the~~
35 ~~Superintendent of Public Instruction in order to provide short-term~~
36 ~~relief to the school district or community college district based on~~
37 ~~a delay in the receipt of federal forest reserve funding pursuant to~~
38 ~~Section 2300 of the Education Code.~~

39 ~~(b) (1) A school district, a county superintendent of schools~~
40 ~~applying on behalf of a school district within its jurisdiction, or a~~

community college district may submit a request for a loan described in subdivision (a) to the Superintendent of Public Instruction. However, a school district shall not submit a request for a loan to the Superintendent of Public Instruction unless its county superintendent of schools has reviewed the request and has certified that the school district is capable of repaying the loan that is sought by that district.

(2) A request for a loan shall detail the amount requested and provide examples of the hardship experienced by the school district or community college district that justify the need for the short-term loan.

(3) If the Superintendent of Public Instruction approves the application for a loan, he or she shall forward the request to the Controller. However, the Superintendent of Public Instruction shall not approve a loan unless the amount of federal forest reserve funding the school district or community college district that is requesting the loan received during the 2005-06 fiscal year represents more than 5 percent of the budget of that district for the 2005-06 fiscal year.

(e) The amount of a loan authorized pursuant to this section shall not exceed the amount of federal forest reserve funding the school district or community college district received during the 2005-06 fiscal year.

(d) A school district or community college district receiving a loan pursuant to this section shall repay the loan in full, plus interest calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date the loan was issued, on or before June 30, 2008.

(e) (1) A request for a loan pursuant to this section shall be made to the Superintendent of Public Instruction no later than 30 days after the enactment of this section.

(2) The Superintendent of Public Instruction shall approve or deny a loan request no later than 60 days after the enactment of this section.

(3) The Controller shall issue the loan upon receipt of the request from the Superintendent of Public Instruction, but shall issue a loan no later than 90 days after the enactment of this section.

(f) This section shall remain in effect only until January 1, 2009; and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

In order to make the necessary statutory changes to provide short-term loans to school districts and community college districts at the earliest possible time, it is necessary that this act take effect immediately.

Heading—Lines 2 and 3.